



164

**PARLIAMENT OF INDIA
RAJYA SABHA**

**DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON HOME AFFAIRS**

ONE HUNDRED AND SIXTY FOURTH REPORT

ON

**CONSTITUTION (ONE HUNDRED EIGHTEENTH AMENDMENT)
BILL, 2012**

**(PRESENTED TO RAJYA SABHA ON 23 NOVEMBER, 2012)
(LAID ON THE TABLE OF LOK SABHA ON 22 NOVEMBER, 2012)**

**RAJYA SABHA SECRETARIAT
NEW DELHI
NOVEMBER, 2012/KARTIKA, 1934 (SAKA)**

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**RAJYA SABHA SECRETARIAT
NEW DELHI**

NOVEMBER, 2012/KARTIKA, 1934 (SAKA)

ACRONYMS

BPL	Below Poverty Level
BRGF	Backward Region Grant Fund
CCPA	Cabinet Committee on Political Affairs
HDI	Human Development Index
IMR	Infant Mortality Rate
KPSC	Karnataka Public Service Commission
MLAs	Members of Legislative Assembly
MLCs	Members of Legislative Council
MMR	Maternal Mortality Rate
PHC	Primary Health Centre
SC/ST	Scheduled Caste/Scheduled Tribe

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* To be appended at the stage of printing

**Department-related Parliamentary Standing
Committee on Home Affairs
(re-constituted w.e.f. 31st August, 2012)**

Rajya Sabha

1. Shri M. Venkaiah Naidu - Chairman
2. Vacant¹
3. Shri Rishang Keishing
4. Shri Janardan Dwivedi
5. Shri Rajiv Pratap Rudy
6. Shri Satish Chandra Misra
7. Shri Prasanta Chatterjee
8. Shrimati Kanimozhi
9. Vacant²
10. Dr. V. Maitreyan

Lok Sabha

11. Shri Anandrao Adsul
12. Shri L.K. Advani
13. Dr. Shafiqur Rahman Barq
14. Shri E. T. Mohammed Basheer
15. Shri Avtar Singh Bhadana
16. Smt. Santosh Chowdhary
17. Dr. Kakoli Ghosh Dastidar
18. Shri Ramen Deka
19. Shri Sandeep Dikshit
20. Shri Naveen Jindal
21. Shri Aaron Rashid J.M.
22. Shri Datta Meghe
23. Shri Lalubhai Babubhai Patel
24. Shri Sanjay Dina Patil
25. Shri Lalu Prasad
26. Shri Rathod Ramesh
27. Shri Hamdulla Sayeed
28. Shri Neeraj Shekhar
29. Shri Navjot Singh Siddhu
30. Shri Ravneet Singh
31. Shri Dinesh Chandra Yadav

SECRETARIAT

Shri P.P.K. Ramacharyulu, Joint Secretary

¹ Shri K. Rahman Khan ceased to be Member of the Committee w.e.f 28/10/2012 consequent on his appointment as Minister in the Union Cabinet.

² Shri Tariq Anwar ceased to be Member of the Committee w.e.f 28/10/2012 consequent on his appointment as Minister of State in the Union Cabinet.

Shri Vimal Kumar, Director
Shri D.K. Mishra, Joint Director
Shri Bhupendra Bhaskar, Assistant Director
Shri Sanjeev Khokhar, Committee Officer
Shri Anurag Ranjan, Committee Officer

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Home Affairs, having been authorized by the Committee to submit the Report on its behalf, do hereby present this 164th Report on Constitution (One Hundred Eighteenth Amendment) Bill, 2012.

2. In pursuance of the rules relating to the Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha, in consultation with Speaker, Lok Sabha, referred* the Constitution (One Hundred Eighteenth Amendment) Bill, 2012 (**Annexure-1**) as introduced in Lok Sabha on 7th September, 2012 and pending therein, to the Committee on 12th September, 2012, for examination and report by the first day of the Winter Session of Parliament, 2012.

3. The Bill seeks to insert a new Article 371 J in the Constitution of India to provide a special provision to establish a separate Development Board for the erstwhile Hyderabad-Karnataka region of the State of Karnataka consisting of the districts of Gulbarga, Bidar, Raichur, Koppal, Yadgir and Bellary to accelerate development, promote inclusive growth and provide for reservation in education and vocational training institutions for domiciles of the region.

4. The Committee considered the Bill, in its sittings held on 16th, 29th October, 2012, and 16th November, 2012. It heard the presentation of the Additional Secretary of the Ministry of Home Affairs on 16th October, 2012. Since, the provisions of the Bill pertain to matters related to the State of Karnataka, the representatives of the State Government

* vide Rajya Sabha Parliamentary Bulletin Part II No.50105 dated 12th September, 2012.

of Karnataka were also invited to the sitting to enlighten the Committee. Since, the provisions of the Bill are also on the similar lines with the provisions that already exist in Article 371(2) (**Annexure-II**) in respect of the States of Maharashtra and Gujarat and Article 371D (**Annexure-III**) in respect of the State of Andhra Pradesh, the Committee in its meeting held on 29th October, 2012 heard the views of the representatives of the State governments of Andhra Pradesh and Maharashtra in the light of the experience gained by them in implementing the said Articles. The Committee also heard the views of the Home Secretary and Secretary, Planning Commission on the said date.

4.1. The Committee in its sitting held on 16th November, 2012 further heard the Home Secretary and the Chief Secretary of Government of Karnataka in view of a communication dated 8th November, 2012 from the Chief Secretary of Government of Karnataka wherein it was stated that the State Government of Karnataka has requested for granting special status to the Hyderabad- Karnataka Region on the lines of special status to Andhra Pradesh under Article 371D. The Letter also mentioned that the Union Government had not consulted the State Government on the contents of the proposed amendment i.e. Article 371 J prior to either bringing it before the union cabinet or before introduction in the Rajya Sabha. He has requested the Committee to suitably modify the Bill in conformity with the Article 371 D and drop the provisions similar to Article 371 (2). Following this development, Members of the Committee, while agreeing with the views of the State Government of Karnataka, were of the unanimous view that the Committee should not take up the clause-by-clause consideration of the Bill and request the Government to withdraw the Bill and a modified version of the Bill may be brought forward before the Parliament at the earliest.

4.2 As per practice, the officers of the Legislative Department and Department of Legal Affairs were also present in all the sittings to respond to the queries of the Members.

5. The Committee in its sitting held on 16th November, 2012 considered and adopted this Report.

6. The Committee has made use of the following documents in preparing the Report:-

- (i) Constitution (One Hundred Eighteenth Amendment) Bill, 2012;
- (ii) Detailed background Note on the Bill as received from the Ministry of Home Affairs;
- (iii) Summary of the final Report of High Power Committee for Redressal of Regional Imbalances;
- (iv) Book titled "Inclusive Growth- 371 for Development of Hyderabad Karnataka Region" jointly authored by Dr. Shalini Rajneesh, Dr. Chaya Degaonkar and Smt. Sangeeta N. Kattimani;
- (v) Oral evidence tendered by the representatives of Ministry of Home Affairs, Planning Commission, Law and Justice and representatives of the State Governments of Karnataka, Andhra Pradesh and Maharashtra;
- (vi) Replies received from the Ministry of Home Affairs and the State Governments of-- on the queries raised by the Members in the sittings and Questionnaire prepared by the Secretariat;
- (vii) A letter dated 9th November, 2012 from the Chief Minister, Karnataka addressed to Chairman, DRPSC on Home Affairs; (**Annexure IV**) and
- (viii) A letter dated 12th November, 2012 from Ministry of Home Affairs addressed to the Rajya Sabha Secretariat forwarding communication of Chief Secretary, Government of Karnataka.

7. For facility of reference and convenience, observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

16th November, 2012
New Delhi

M. Venkaiah Naidu
Chairman
Department-related Parliamentary
Standing Committee on Home Affairs

REPORT

1.0 INTRODUCTION

1.1 The Constitution (One Hundred Eighteenth Amendment) Bill, 2012 (hereinafter called the Bill) proposes to insert a new Article 371 J in the Constitution to provide for special provisions for the erstwhile Hyderabad-Karnataka region of the State of Karnataka consisting of the districts of Gulbarga, Bidar, Raichur, Koppal and Yadgir and additionally include the Bellary District to accelerate Development of most backward region of the State. The proposed Constitutional Amendment i.e. insertion of Article 371 J has been evolved on the basis of two existing models viz. 371 D in respect of Telangana and Article 371(2) in respect of Vidarbha. Article 371 D provides reservations for the residents of Telangana in matters of employment opportunities and educational facilities while the Article 371(2) makes provision to promote economic development in Vidharbha, Marathwada and rest of Maharashtra region.

2.0 OBJECTIVE OF THE BILL

2.1 According to the Statement of Objects and Reasons of the Bill, the proposed Article 371 J makes special provisions to establish an institutional mechanism for equitable allocation of funds to meet the development needs over the Hyderabad- Karnataka region, as well as to enhance human resources and promote employment from the region by providing for local cadres in service and reservation in educational and vocational training institutions by an amendment to the Constitution of India.

2.1.1 The Statement of Objects and Reasons of the Bill further stipulates that the Article 371J in the form of a special provision seeks to provide for:—

- (a) establishment of a separate Development Board for the aforesaid region mentioned above;
- (b) provide for equitable allocation of funds for development over the said region subject to the requirements of the State as a whole;
- (c) provide reservation in public employment through the constitution of local cadres for domiciles of the region; and
- (d) provide for reservation in education and vocational training institutions for domiciles of the region.

3.0 BACKGROUND

3.1 The Ministry of Home Affairs furnished background note on the Bill. According to the background note, during the re-organisation of States on linguistic basis in 1956, the Hyderabad-Karnataka region, which formed a part of the erstwhile Hyderabad State, was integrated with the State of Karnataka. The erstwhile state of Hyderabad, which was under Nizam's rule, was extremely backward in terms of social-economic development. The Hyderabad-Karnataka region under the Nizam Rule originally consisted of the districts of Gulbarga, Bidar and Raichur. Subsequently, the district of Koppal was carved out of Raichur district in 1997 and the district of Yadgir was carved out of Gulbarga district in 2010, all of which constitute districts of Gulbarga Division. Bellary district, which was originally administered as a part of the Madras Presidency, also had become part of Gulbarga Division.

3.1.1 The Ministry of Home Affairs further informed that the Union of India attempted to improve the status of Marathwada and Telangana areas by giving them special constitutional status in 1956 by bringing in Constitutional amendments to the Article 371. The Government of Karnataka had sent a proposal in the year 1998 to the Government of India to amend Article 371 of the Constitution to provide for similar special provisions in respect of Hyderabad-Karnataka region on the lines of special provisions made under Article 371D in respect of Andhra Pradesh to provide regional reservations in public employment and education. The said proposal of the State Government was rejected in 2002 on the ground that the circumstances in Andhra Pradesh that led to the insertion of Article 371D in the Constitution did not exist in Karnataka.

3.1.2 It was further stated that the Government of Karnataka then set up a High Power Committee for Redressal of Regional Imbalances under Dr. D.M. Nanjundappa, Former Vice Chairman of Karnataka State Planning Board to assess the causes for regional imbalance in the State. After carrying out a detailed study, the High Power Committee in its report submitted in 2002, highlighted the disparities among various regions of Karnataka. As per the report, the districts of Bidar, Bellary, Raichur, Yadgir, Gulbarga and Koppal were considered the most backward regions of the State. While recommending the abolition of all Regional Boards and Border Area Programmes, the High Power Committee proposed to make provisions under Article 371 for creation of Development Boards on the lines of Development Boards in Maharashtra under Article 371(2). In view of the report of the said Committee, the State Government of Karnataka reiterated their demand. In

2008, the State Government again made a request for amendment in Article 371 on the lines of Article 371D as provided to the State of Andhra Pradesh.

3.1.3 The Ministry of Home Affairs further stated that the Legislative Assembly of Karnataka then passed a resolution on 17th March, 2010 to make special provisions for the Hyderabad-Karnataka areas of the State of Karnataka on the same lines as made in respect of the State of Andhra Pradesh under Article 371D of the Constitution of India by bringing amendment to the Constitution of India. The Legislative Council of the State also passed a similar resolution on 18th March, 2010. In this connection, an all Party delegation led by Shri B.S. Yeddyurappa, the then Chief Minister of Karnataka also met the Prime Minister on 21st March, 2011 and submitted a memorandum enlisting various issues concerning Karnataka. In the memorandum, a request was made for grant of special category status to the Hyderabad-Karnataka region.

3.1.4 The proposal of the Government of Karnataka dated 7th June, 2012 sought the inclusion of the districts of Gulbarga, Bidar, Raichur, Koppal, Yadgir and Bellary for application of the special provision on the ground of relative economic backwardness in comparison to the rest of the State. The Cabinet Committee on Political Affairs (CCPA) considered the proposal of the State Government of Karnataka on 3.8.2012 and approved the proposal to accord special status to the Hyderabad-Karnataka region in the State of Karnataka with the direction that approval of the Cabinet for moving the Constitutional amendment be sought at an early date. The Cabinet in its meeting held on 4th September, 2012 considered and approved the proposal to accord special status to the Hyderabad-Karnataka region in the State of

Karnataka. Subsequently, the Constitution (One Hundred Eighteenth Amendment) Bill, 2012 was introduced on 7th September, 2012 in Lok Sabha for a constitutional amendment involving the insertion of Article 371J combining the elements of the two existing models viz. Article 371(2) and Article 371D.

3.1.5 From the background note and from the report of High Power Committee, the Committee also noted that the concentration of most backward taluks lie in the Gulbarga Division, in the 3 districts of the erstwhile Hyderabad-Karnataka (now five with creation of the new district of Koppal out of the erstwhile Raichur District and Yadgir out of Gulbarga District). According to the Ministry, the Karnataka Human Development Report has also shown that in respect of the key indicators of human development, these districts fall behind the State average.

Social Indicators

3.1.6 According to the Ministry, the proportion of SC/ST population in Gulbarga Division is 31.87 per cent (State average of 22.75%) which is higher as compared to Bangalore Division (27.61%), Mysore Division (20.16%), and Belgaum Division (17.05%). Total Minority population in the state according to census 2001 was 64,63,127. Out of which, Gulbarga region (14,70,565) is having 22.76 percent of minority population (against the State average of 12.4%). The Ministry felt that this indicates co-existence of social backwardness and high incidence of poverty in the region.

Health Infrastructure

3.1.7 The Committee was also informed that according to the Study on 'Baseline Survey of Minority concentrated districts of India (Gulbarga), conducted by Institute for Human Development and sponsored by the Union Ministry of Minority Affairs, there is acute shortage of health and drinking water facilities in rural areas of Gulbarga. In all the indicators, the district is well below the state average. Only 29 per cent of the villages have Primary Health Centre (PHC) within a distance of 5 kms and only 13.4 per cent of the villages have a Maternity and Child Welfare Centre within a distance of 5 kms (State average 23.6 per cent).

Comparative Position in Literacy

3.1.8 The Ministry informed the Committee that Telangana Region is able to enjoy better position in literacy and employment on account of Special provision in education and jobs as compared to Hyderabad - Karnataka region. Some evidence from the available statistics is presented as under:

Sl. No.	Indicator	HK Region	Telangana	Karnataka	Andhra Pradesh
1.	Level of literacy (2011 Census provisional)	64.93	67.53	75.60	67.66
2.	Female literacy (2011 Census Provisional)	54.76	59.46	68.13	59.74

3.1.9 The Hyderabad - Karnataka Region has lagged behind on account of lack of adequate provisions to speed up the process of development in the region.

Employment

3.1.10 Explaining about the status of employment in the region, the Ministry stated that though the work participation rate of the districts (44.17 per cent) is above the national average, employment is mainly in dry land agriculture, which is both insecure and less remunerative. Therefore, employment needs to be given top priority, as the present employment does not fetch enough income to the people. Female work participation is 32.91 per cent. A large proportion of them are marginal workers but their earnings are essential for the survival of the family. The service sector is growing in the district. Therefore, the Ministry felt that there is a need to sustain its

growth and increase the participation of these households in this sector through provision of credit, marketing and skills.

Government Employment

3.1.11 According to the Ministry of Home Affairs, the latest appointment of Gazetted officers by Karnataka Public Service Commission (KPSC) in group A, B, C shows a very dismal picture from Gulbarga Division compared to other division as shown in the table below:

Division -wise Appointment of Gazetted Posts by KPSC (2009-10)					
SL.no	Division	Gazetted	Gazetted	Non-Gazetted	Total
		Group A	Group B	Group C	
1.	Belgaum Division	14	744	1383	2141
2.	Gulbarga Division	2	327	908	1237
3.	Bangalore Division	24	1734	3102	4860
4.	Mysore Divison	7	1103	717	1827
	North Karnataka	16	1071	2291	3378
	South Karnataka	31	2837	3819	6687
	State	47	3908	6110	10065

3.1.12 The vacancy position in Revenue Department and Rural Development and Panchayat Raj Department (including education, health and animal husbandry departments) as indicated in the following table shows that Gulbarga Division has more vacancies compared to other divisions:-

Vacancy Position as on September 2011 in Revenue Department

District	Group-A			Group-B			Group-C			Group-D			Group-E		
	S	F	V	S	F	V	S	F	V	S	F	V	S	F	V
Bidar	4	2	2	6	3	3	570	495	75	81	70	11	661	570	91
Gulbarga	7	7	0	14	7	7	804	691	113	122	104	18	947	809	138
Yadgir	3	2	1	6	3	3	341	309	32	53	38	15	403	352	51
Raichur	4	3	1	9	5	4	558	503	55	107	81	26	678	592	86
Koppal	3	3	0	8	5	3	378	331	47	68	50	18	457	389	68
Bellary	4	3	1	11	9	2	665	567	98	82	80	2	762	659	103
Total	25	20	5	54	32	22	3316	2896	420	513	423	90	3908	3371	537

Note: S: Sanctioned, F: Filled up, V: Vacant

Vacancy Position as on September 2011 in Rural Development and Panchayat Raj Department

District	Group-A			Group-B			Group-C			Group-D			TOTAL		
	S	F	V	S	F	V	S	F	V	S	F	V	S	F	V
Bidar	81	59	22	441	333	108	9562	9063	499	1025	608	417	11109	10063	1046
Gulbarga	367	234	133	635	358	227	16232	13932	2300	2419	1459	960	19153	15983	3170
Yadgir	48	34	14	98	72	26	541	340	201	533	224	309	1220	670	550
Raichur	180	111	69	168	99	69	12123	10210	1913	781	388	393	13252	10808	2444
Koppal	190	104	86	399	260	139	9185	7994	1191	1287	654	633	11061	9012	2049
Bellary	269	189	80	650	389	261	2815	2098	717	3073	2098	975	6807	4774	2033
Total	1135	731	404	2391	1511	880	50458	43637	6821	9118	5431	3687	62602	51310	11292

Note: S: Sanctioned, F: Filled up, V: Vacant

Skill Gap Analysis in the Gulbarga Region of North Karnataka.

3.1.13 The Committee was apprised that the North Karnataka region has consistently ranked as one of the Under-developed regions in the state. A district wise comparison of Human Development Index (HDI) in

Karnataka shows that Raichur, Gulbarga, Chamarajanagar, Bijapur and Koppal are the bottom five districts in 2001. Although this region with a total population of 9.4 million accounts for 17% of the State's population and Workers (15+ years) constitute about 69.5% of total population of the region, nearly 64% (4 million) of them are either illiterate and /or have not completed primary education. A large chunk of the total population comprises of youth which is a challenge in the context of skill development. The problem is especially acute among rural workers and women. 85% of female workers, as opposed to 57% of the male workers, are illiterate. 74% of rural workers, as opposed to 37% urban workers, have little or no education.

3.1.14 Explaining about the less availability of skilled labour in Gulbarga region, the Ministry stated that it is quite low compared to other parts of Karnataka. For instance, seven southern districts accounts for 52% of all formally trained youth. In contrast, the Gulbarga region accounts for lowest share in total formal trained youth (6.6%). Only 2.2.% of total population (1.39 lakhs) above 15 years of age are technically educated and a majority of technical educated are (1.8%) below graduate level with only diploma or certificate. It was also stated that labour productivity is also known to be the lowest in all the north Karnataka districts.

3.1.15 The committee also took note of a book entitled "Inclusive Growth -371 for Development of Hyderabad Karnataka Region" written by Dr. Shalini Rajneesh, Dr. Chaya Degaonkar and Smt. Sangeet N. Katimani, in which it has been depicted that despite many interventions at State level over a period of time, the region has continued to remain in the trap of

backwardness. Justifying the special development in the region, the book indicated following facts about the region as in 2008-09:-

- (i) The area is constituted by 68% of the most backward talukas;
- (ii) Half of the States' school dropouts are from this region. As high as 25% of the children dropout at primary level as compared to State average of 13.9% leading to rampant child labour.
- (iii) The number of primary schools per 10,000 population, is the lowest in Hyderabad – Karnataka region as compared to other regions;
- (iv) The expenditure per child in the age-group of 6-14 years is lowest in Raichur and Koppal districts.
- (v) As against national average of 65.37% and State average of 67% as per 2001 Census, Hyderabad-Karnataka region has only 54.24% literacy.
- (vi) The gender gap in literacy is 25% vis a viz 20% in the State;
- (vii) The share of students of this region in securing seats in medical and engineering courses is very low due to lack of competitive skills and inability to pay high fees.
- (viii) 40.71% of rural households are Below Poverty Level (BPL) vis a viz 33.00% of the state.
- (ix) 28.32% deliveries are unsafe in Hyderabad-Karnataka region vis a viz 13.08% of the State.
- (x) MMR for HK region is 126 as against 112 of the State during 2008-09.
- (xi) 67% women and children are malnourished.
- (xii) Infant Mortality Rate (IMR) for Hyderabad-Karnataka region is 21 vs 16.9% of the State during 2008-09. The Crude Birth

Rate of Hyderabad-Karnataka region is 23 against 22.4 of the State and Crude Death Rate is 8.0 as against 7.5 of the State.

- (xiii) The number of hospital beds per lakh population is less than half of the State average. With regard to Bed population, infrastructure in Hyderabad- Karnataka region is 30% less than South Karnataka.
- (xiv) Population coverage per Health unit in Hyderabad - Karnataka region is 5620 which is more than the State average of 4918.
- (xv) 44% of habitations are not fully covered by the safe drinking water facilities and 1/3rd of the drinking water sources are unsafe due to the presence of Nitrate, Arsenic and Fluoride.
- (xvi) Telephones per lakh population served in Hyderabad-Karnataka region is 1733 as against State average of 4402.
- (xvii) Number of vehicles per lakh population in the division is 7886 as against State average of 15694.
- (xviii) The total road length of the division is 22841 km vs 1,47,212 km of the State as on 31.03.2009. The average road length of the region is 4568 km which is less than the State's average of 5076 km.
- (xix) 19.15% of the total population belongs to Scheduled Caste categories vs 12% of State.
- (xx) A high percentage (52%) of the marginal holdings are held by SCs, 83.25% of which is un-irrigated.
- (xxi) 13% of Scheduled Tribe population resides in the Hyderabad-Karnataka region vis a viz 6.5% of the State.
- (xxii) Muslims among Minorities population constitute 15.03% in the region vis a viz 12.23% of the State.

- (xxiii) Only 1% of the cattle population is of high yielding variety.
- (xxiv) The average number of main workers in the region is 6.4 lac per district vis a vis 6.7 of the State.
- (xxv) Percentage of marginal workers in Hyderabad-Karnataka region is 9.5 vis a viz 7.8% of the State. The agricultural labourers are therefore increasingly migrating in search of job.
- (xxvi) There are more number of small and medium farmers (SF & MF) owning 2 to 10 hectares of land, and the dry land cultivation is uneconomical.
- (xxvii) As per 2007-08 estimates, the agricultural income per hectare of agricultural land in Gulbarga Division is Rs. 17995 compared to the State average of Rs. 27008.
- (xxviii) The agricultural income per agricultural worker for the State as a whole is Rs. 26558 whereas it is RS. 23676 for Gulbarga Division. Even the average yield of cereals, pulses and oil seeds per hectare is also low in these districts compared to the State average except in case of pulses in Gulbarga district and oil seeds in Bellary district.
- (xxix) The area covered under forest in the Division is 5.54% as against State average of 16.1% in 2007-08.
- (xxx) The average number of registered unemployed in the Division is 30482 as against State average of 22473, Bidar has the highest number i.e. 58099 after Bangalore.
- (xxxi) The number of scheduled banks in the Division i.e 138 is less than the State average of 197.
- (xxxii) The average number of people served per bank branch in the Division is 9923 as against the State's average of 7667.

- (xxxiii) The average loans provided by cooperatives in Hyderabad-Karnataka region stood at 4074.45 lakhs as against the State's average of 35162.60 lakhs. The number of primary land development banks equals the State's average but the loan advances i.e credit proxy is very much lower than the State's average.
- (xxxiv) There is hardly any industry other than Cement. No-industries list of 1983, Planning Commission's worst 100 district lists or the Rating done by the National Commission on Population in 2001 have quoted the districts of Hyderabad Karnataka i.e. Bidar and Gulbarga in the list.
- (xxxv) The average number of large industries in the region (192.60) is less than the State average of 413.20 whereas the average number of small scale units i.e. 470 is less than the State average of 541. However the employment generated by small scale units is more (205920) than the State's average of 105063.
- (xxxvi) A survey was conducted by India Today on India's most backward districts in its issue dated August 25, 2003. It quoted "Karnataka is one of India's progressives States and hosts the Silicon Valley, it also hosts Gulbarga, one of the worst districts where every second person lives below the poverty line".
- (xxxvii) After the introduction of Article 371(2), Maharashtra region has gained an additional financial assistance to the tune of Rs. 11,801 crore. The Vidarbha model has helped to promote economic development in Marathwada region in terms of capita income higher than HK region.

- (xxxviii) After the introduction of Article 371D, Telangana Region is able to enjoy better position in literacy and employment, on account of Special provision in education and jobs.
- (xxxix) District Sector Schemes (after taking away the indivisible portion) account for less than 20 per cent of the annual plan of the State, the 4 districts of Gulbarga Division have got, on an average of about 18 per cent of the District sector allocation during VI Plan.
- (xl) The staff vacancy position in various departments of Gulbarga Division is much higher than the rest of the State. The posts are filled up from all over the State and the appointees being largely from South Karnataka, take transfers to regions other than Hyderabad-Karnataka region, leading to poor plan implementation.
- (xli) 73% Officers working in the Secretariat belong to South Karnataka as against 22% from North Karnataka.
- (xlii) The share of Hyderabad Karnataka region in Secretariat is only 5.45% in the state and with regard to Heads of Department working in the State services is only 10%.

4.0 PRESENTATION

4.1 The Committee in its sitting held on 16th October, 2012, heard the representatives of the Ministry of Home Affairs and State Government of Karnataka. In the subsequent meeting held on 29th October, 2012, the Committee heard the Home Secretary, Secretary Planning Commission and

the representatives of the States Government of Maharashtra, Andhra Pradesh and Karnataka.

4.1.1 The Additional Secretary of the Ministry, during the course of the presentation on 16th October, 2012, explaining about the necessity of the Bill stated that it would bring a lot of development and local employment in Karnataka. This is the hope of the Government in introducing this Bill.

4.1.2 The Joint Secretary of the Ministry stated that the Hyderabad-Karnataka Region of Karnataka, which is the Northern Karnataka, is extremely backward -- socially as well as economically -- for various reasons. It was a part of erstwhile Hyderabad Nizam area and along with it, one district of erstwhile Madras Residency, which is the Bellary district has also remained extremely backward. Accordingly to him there are a number of reasons for its backwardness and the Government of Karnataka has, in fact, made very extensive research as well as study as to why the regional imbalance has remained persistent since Independence. The main districts, which are involved in this particular backwardness, include the erstwhile Gulbarga district, the erstwhile Raichur district and Bidar district.

4.1.3 Reiterating the background of the proposed Bill, as mentioned in the background note, he stated that the Ministry intended to set up a Regional Development Board for the Northern Karnataka Region consisting of the five districts, for which the Governor will also have a special responsibility to play. Explaining about the fund requirement, he stated that the possible backlog in terms of funds required would probably be calculated by the State Government through another Committee. The process of trying to rectify

the imbalance possibly would be initiated by the Karnataka Government. In respect of the employment he stated that the requirement of providing local cadres in terms of employment would also be constituted through a Presidential order on the recommendations of the Karnataka Government. As regards educational facilities, he explained that the requirement of educational facilities made available specifically for people of that region or domiciles of that region would also be taken up by Karnataka Government in terms of general education, in terms of technical education and in terms of vocational education. The Bill seeks to achieve these limited objectives through this constitutional Amendment proposal.

4.1.4 The representatives of the State Government of Karnataka also gave a detailed background of the backwardness in support of the proposed Bill, of the region and various efforts made by the State Government. The main highlights of the presentation made by them are as under:-

- (i) Efforts were made by the Government of Karnataka, starting from 1992 when through an internal decision of the Government, an internal Hyderabad-Karnataka Area Development Board was created and in 2002, a high-powered committee went into this question in great detail;
- (ii) The Nanjundappa Committee felt that the area suffers from very large degree of educational backwardness. The Government Departments at the cutting edge of provision of services -- health, education, public engineering -- suffer from huge vacancies. The Government has not been able to recruit people from the region. The region has typically not been able to provide the skills that are required and one consequence is that these critical Government Departments continue to be very poorly manned;

- (iii) The State Government has been able to pump in about Rs. 900 crores through Hyderabad-Karnataka Area Development Board (HKADB). All the MLAs, MPs and MLCs are members of this Board. There are nearly 60 members. Apart from that, from 2007-08 till date, nearly Rs. 9,000 crores have been put in by the State Government over and above the annual allocation of the budget under the Five Year Plan. This is called 'Special Development Plan'. Under this Plan, areas of deficiency, areas of infrastructural shortcomings were found by Dr. Nanjundappa's Report, and the potential for development was also found in that region. So the money has been pumped into those sectors;
- (iv) Out of 32 Taluks in the six districts of the region, 68 per cent of them are most backward; others are more backward or relatively backward and only three are normally placed in the Development Index. There is also problem of high IMR and MMR, and the drop-out rate is 50 per cent. There is very poor industrial development in most of these places. Regarding infrastructure, there is not a single airport in the area. There are major deficiencies in railway connectivity. No industry is coming up in the region because the skill base is very poor and there is no airport and railway connectivity. Electricity is also a very big problem;
- (v) Even after a decade of Dr. Nanjundappa's Report, the region *vis-à-vis* the rest of the State of Karnataka suffers from a lot of deficiencies. Therefore, this amendment talks of two things; first is the funding part of it and the second is the human resource part of it, whether it is reservation in education or reservation in employment. The Government of Karnataka has set up a lot of buildings, whether hospitals or schools, but there are no doctors, no teachers and no veterinary inspectors because people from that area do not compete and get through the exams because of their backwardness in this region. As a result people recruited from other parts of Karnataka, come, report for duty and then get transferred to other regions because they do not want to work here because of the hardships. As a result, the schemes remain relatively less operational and less successful;

- (vi) In the Sixth Five Year Plan, it was worked out that if Rs. 350 crores package was given to this region, it could be brought at par. But unfortunately that money never came in. After that, Dr. Nanjundappa Report calculated that if an additional amount of Rs. 16,000 crores with existing Rs. 15,000 crores, over eight years, that means Rs. 31,000 crores, is pumped into this region, it could be brought at par with the rest of the State. But only Rs. 9,000 crores have been pumped in so far;
- (vii) If one studies the effect of enabling provisions in Maharashtra and Andhra Pradesh, one finds that in the last 20 years or so the *per capita* income in Marathwada and Vidarbha areas has improved. Human Development Indicators in Telangana like the level of literacy, especially female literacy and employment share in the State where local reservation has been provided is much better as compared to the Hyderabad - Karnataka region;
- (viii) In the case of Maharashtra, in 1994, a statutory Development Board was constituted in certain places. In 2003, the Performance Evaluation Office of the Planning Commission conducted a performance survey. According to the Performance Report, the findings of the study clearly indicated that not only did the Board discharge the assigned functions and responsibilities reasonably well, but they also brought about important changes in the planning process of Maharashtra. So, this shows that through a Board it is possible to do a lot of things, even in the planning process;

4.1.5 As regards the financial allocation, the Additional Secretary of the Ministry of Home Affairs made the following submissions:

- (i) The Bill provides for an enabling provision. There is already a Board but, it could not achieve much because it did not have the statutory status. Board should look at those particular areas where there is a potential for development and one big investment chunk should come in to spur the economic and social development of that region. There is a lot of potential for

industrialization because it is rich in minerals. Even diamond reserves though, of low grade, are found in this region;

- (ii) No mention has been made about financial allocations in the Bill because it is an annual feature. The State Government will definitely be influenced to take into account the demands of all the districts within the State and the sectors; and, then, it can make a demand to the Planning Commission and accordingly funds can be allocated. This does not really remove responsibility of the State Government and brings the region on par with the rest of the State;
- (iii) Regarding the need for provisions in the Bill for dedicated Central allocation of funds, it can be said that this Bill provides for enabling provision, both for reservation and for creation of Board. This enabling provision will give rights to the people of the region, which, in turn, would generate public demand which no government could afford to ignore.

4.1.6 Dwelling upon the provisions of the proposed Bill, the Home Secretary in the sitting held on 29th October, 2012 stated as under:-

" when we had drafted the Constitution (Amendment) Bill, we looked at the constitutional arrangements for Maharashtra as well as those for Andhra Pradesh, and we decided to take the best features of both and combine the two. The two deal with two different aspects. The Andhra Pradesh model deals with representation in employment. So, they have addressed this problem by formation of local cadres. Now, that has helped in making sure that people from those areas get employment in Government, but that does not address the deficit of development *per se* which requires investments. Now, investment means capital or funds. That is the model which is addressed by Article 371(2), the example of which we have in Vidarbha, Maharashtra. It provides for an equitable distribution of funds and a Regional Planning Board. It focuses on both regional planning and equitable distribution of funds. So, we combined the best features of both, and our intention in doing that was to have the best possible mechanism in place for addressing the development deficit of this area."

Views of the Planning Commission

4.1.7 The Committee desired to know the views of the Secretary, Planning Commission as regards the role of the Planning Commission in the present envisaged Constitutional Amendment and the steps that would be taken to address the backwardness of the region. The Chairman of the Committee desired to know the approach of the Planning Commission to remove imbalances and the issue of infusion of funds in the backward regions. Replying to the queries, the Secretary, Planning Commission stated as under:-

"...as the Committee is more than well aware, this is an area that is entirely within the domain of the State Governments. However, inter-State disparities and intra-State disparities have been the subject of a lot of discussion within the Planning Commission and in the formulation of the Twelfth Five Year Plan.the considered view at this time is that backwardness is not properly addressed by mere infusion of funds. The problem appears to be much more deep; it is structural. The capacity to absorb funds does not exist in the backward areas within a State and across States. However, this entire issue is being addressed through a flagship programme called Backward Regions Grant Fund. This has evolved over time. It has also subsumed within itself certain special area programmes and certain district level programmes which address specific problems relating to backwardness and, in some cases, Left-wing extremism, like the Integrated Action Plan. Now, the Backward Regions Grant Fund is being restructured and reformulated along with a very in-depth consideration on the criteria of backwardness and how funds should flow. But within the ambit of the present constitutional amendment, infusion of funds will not be additional to what is already in the prevailing mode, which is the Central Government through Centrally-sponsored schemes, and certain additional Central assistance is given to the State Governments which, in turn, implement the

plans or utilize the Central assistance to implement plans within their own States."

4.1.8 Responding to the Chairman's pin-pointed query as to whether the Planning Commission earmarked funds for these six districts in view of their backwardness, the Secretary, Planning Commission replied in affirmative and stated that four districts are under the Backward Region Grant Fund (BRGF) . Dwelling upon the details of the scheme the Secretary, Planning Commission stated as under:

" the schemes address primarily issues relating to infrastructure, both physical and social. The social infrastructure is a new development. These include issues of health, education, malnutrition, hunger and food security. Physical infrastructure is entirely a matter relating to connectivity and linking the area in a better way to the rest of the State and districts."

4.1.9 An institutional mechanism is proposed to be set up under the Bill for equitable allocation of funds. When the Committee sought to know the mechanism and the modus operandi of the frame work, the Ministry stated that the institutional mechanism being proposed is that which is similar to the one that is already existing under Article 371 (2) of the Constitution. A Presidential Order is issued assigning the Governor a special responsibility for the establishment of Development Board for the under-developed area. The Governor in turn then issues an order constituting the Development Board. The Development Boards consist of experts, local administrative functionaries, a few MLAs/MLCs and a representative of a local authority like Mayor.

4.1.10 The Committee sought to know meaning of the expression 'Equitable distribution of funds' and the strategy and the mechanism to ensure the same. In reply, the Ministry of Home Affairs stated that the clause 'Equitable distribution of funds for developmental expenditure over the said region, subject to the requirements of the State as a whole' has to be read in totality. Hence there are two aspects:

- a) The problem of backlog accumulated over the last several years.
- b) Equity in making allocation keeping in view the requirement of the State as a whole.

4.1.11 A development Board is proposed to be set up under the Bill and a Board is already functioning. When the Ministry was asked to explain the difference between the proposed Board and the existing/previous Board, the Ministry of Home Affairs submitted that there is no change in terms of what has been contemplated. The current proposal draws on the Maharashtra Model and the Development Boards there have the following activities:

- a) Ascertaining relative levels of development in different sectors
- b) Assessing impact of various development efforts
- c) Involvement in the planning process of the State
- d) Assessing critical gaps in infrastructure for investment.
- e) Submission of Annual Reports to the Governor and the State Legislature

4.1.12 The Committee queried about the role of the Central Government as to whether it would be limited to legal framework or the Union Government would also provide resources as it is done in the North-Eastern Region. The Ministry of Home Affairs responded that the Central

Government will only provide the legal framework and no additional resources would be provided for forming the regional development council. The State would have to work out the backlog in terms of investment required for ensuring that the backward region catchup with the more developed regions of the State and phase the deployment of investment/funds over a suitable time period.

Constitutional Provisions - Removal of Regional Imbalances

4.1.13 The Constitution makes reference to various arrangements for special status to States and regions within the country in Article 371. The Committee noted that the erstwhile State of Hyderabad which was under Nizam rule, was extremely backward in terms of socio economic development. The Union of India attempted to improve the States of Mahathawada and Telangana areas by giving them special constitutional status in 1956, by bringing in the Constitutional amendment to Article 371. The Vidharbha model of development in Maharashtra included provision of special development funds routed through development boards, aimed at reducing regional imbalances. The focus was on investing in infrastructure projects and human resource up gradation. The Telengana model projects the interests of the people in the backward region by providing employment opportunities in the government sector and reservations in the higher educational institutions.

4.1.14 As state earlier, the Committee heard the representatives of Maharashtra and Andhra Pradesh to understand their experience in

implementing their respective models. The information shared by them is followed in the succeeding paragraphs.

Maharashtra Model and experience

4.1.15 Maharashtra Government in its background note stated that Article 371(2) of the Constitution enables the President of India to provide for any special responsibility of the Governor of Maharashtra for the establishment of separate Developmental Boards for the 3 regions of the State of Maharashtra- Vidarbha, Marathwada & the rest of Maharashtra. Accordingly, the President promulgated the order titled "State of Maharashtra (Special Responsibility of the Governor for Vidarbha, Marathwada and the Rest of Maharashtra) Order, 1994". In pursuance of this Presidential order, the Governor of Maharashtra formulated an order on 30th April, 1994 titled "Development Boards for Vidarbha, Marathwada and the rest of Maharashtra Order, 1994 (subsequently partially modified in 2011)." The objectives of the Order are ensuring equitable allocation of funds for development expenditure over the three regions; ensuring equitable arrangements for technical education and vocational training; and ensuring equitable opportunities for employment in services under the control of the State Government.

4.1.16 The Maharashtra Government also stated that the Fact Finding Committee, appointed in 1983 under Shri V.M. Dandekar, identified a few sectors for the assessment of regional imbalance. In each sector, the State average of an appropriate sub-indicator was compared with the district average to arrive at the deficit/surplus for the district. The Governor appointed another committee of experts called the Indicators and Backlog

Committee to re-evaluate the extent of backlog, This committee estimated the total financial backlog in the year 2000 to be Rs. 14006 crores among the three regions. Out of this financial backlog, Vidarbha had a backlog of Rs. 6624.02 crore (47.60%), Marathwada had a backlog of Rs. 4004.55 crore (28.77%) and the rest of Maharashtra had a backlog of Rs. 3378.2 crore (23.63%). A sector wise analysis of this backlog was also done. Since 2001-02, the Governor has been ensuring that the allocation of budgetary resources is carried out equitably and transparently. This is done by issuing directives to the State Government before the annual budget is presented before the Legislature.

4.1.17 According to the Maharashtra Government it was observed by the Governor that mere allocation of resources is not sufficient. Unresolved governance issues impair the administrative machinery from effective utilization of the allocated resources. Therefore, the Governor has directed the State Government that issues such as timely approvals, effective monitoring, expediting land acquisition and rehabilitation, providing adequate human resources, etc. should be addressed on priority. Further, the Governors over the years have highlighted issues of pending forest and environmental clearances and availability of sufficient number of projects on shelf to improve utilization of allocated resources in less irrigated areas. In view of the huge balance cost of the ongoing irrigation projects, the Governor has directed that no new projects should be taken up to avoid thin spreading of the available resources. The Governor has also directed prioritization, close monitoring and supervision of the ongoing projects.

4.1.18 It was further stated that as a result of the equitable allocation, the financial backlog of Rs.6618.37 crores in the irrigation sector (as on 1/4/2000), as identified by the Indicators & Backlog Committee has been liquidated. For the sectors other than irrigation, out of the total backlog of Rs. 7388.40 crore (as on 1/4/2000), the remaining financial backlog at the end of the 2011-12 financial year is Rs. 638.01 crores. This backlog exists in the sector of public health only.

4.1.19 The Committee also noted from the background note that the Governor's Directives have also ensured that the region-wise budgetary allocations and utilization become transparent. The region-wise budgetary allocation, based on the Governor's Directives are shown in the budget documents. From the current financial year (FY 2012-13), the State Government has activated an online system for capturing details of region-wise developmental expenditure (plan & non-plan) for all sectors. To ensure equitable arrangements for technical & vocational education, the Governor has issued directives. The State Government has given effect to some of these directives. 30% of the seats in colleges are filled up on the basis of State level merit list. Also, reservations are provided in certain technical courses for students originating from regions where these courses are not available. To examine the issue of equitable employment opportunities, the Governor appointed a joint committee of the Development Boards. This committee submitted two reports, in 1998 & 2004. The reports of the Committee suggest that there is equitable region-wise representation of employees in the services under the control of the State Government.

4.1.20 During the course of oral evidence, the representatives of the Maharashtra Government, while reiterating the background on the Maharashtra experience, explained that the decision to reserve seats in educational institutions has gone into legal wrangles. He stated as under:-

"A joint committee was set up, which made certain recommendations. Based on these recommendations, it was decided that 30 per cent of the seats of engineering, medicine, pharmacy and architecture would be decided on the basis of State merit list whereas 70 per cent of the seats would be decided on the basis of the population of the respective Regional Developmental Boards. This decision ran into some legal issues and the High Court passed an order declaring the rules framed by the State Government as unconstitutional. The judgement was given in 1997. Subsequently, the State Government filed an appeal in the matter in the Supreme Court, which is pending.

4.1.21 Clarifying on the issue of reservation policy, the representatives of Government of Maharashtra stated as under:-

" Initially, the Committee, which came out with the Report, identified five areas where the intervention from the Governor was required, namely, medicine, dentistry, engineering, architecture, and, pharmacy. Initially, the rules were made for MBBS and dentistry, which were struck down by the Court. Some elements of that were common to other three disciplines also but the Government found out certain portion which was not affected by the High Court judgement. Now, the formula, which we are using, is 30 per cent to be filled on the basis of the State merit list and 70 per cent to be filled from students of the same university area. For example, if engineering college is situated in a particular university area, then, the seventy per cent of the seats will be filled by students from that area."

4.1.22 To overcome the lacunae in the reservation policy, the representatives of Government of Maharashtra putforth the following suggestions:-

" If we make this sort of reservation in educational institutions or in Government services, there is a likelihood that the court may strike it down for being violative of Article 14. My point is whether we can give weightage to the candidate from these areas. It will be some sort of grace marks. If in a hundred marks paper, if we give him 15-20 grace marks, this fellow can compete in the merit list, and, they would not face any problem at the time of judicial scrutiny. This is the suggestion from our own experience."

4.1.23 Elaborating further on the calculation of the backlog, the representatives of the Government of Maharashtra submitted as under:-

"Actually, the backlog was calculated as per indicators, district-wise. Later on, we found that in this kind of implementation, there were some lopsided development. For example, in Vidarbha region, Nagpur region got more funds under irrigation while Amravati region was left out. When we calculated it, we found that there was more backlog in Amravati, in Yavatmal District. Then, State Government concentrated on those Districts, special funds were provided to them and brought that backlog at par with other Vidarbha region.... We took out the average. We developed some indicators like population, irrigated area and the area sown. Average of the State was taken, and, the Districts which were below average, were categorized as backlog districts."

4.1.24 When the Chairman of the Committee sought to know whether the decision regarding the calculation of backlog was taken by the State

Government, the representatives of the State Government of Maharashtra submitted as under:-

“Firstly, it was done by the State Government, and, in the second instance, the Governor appointed a Committee under the chairmanship of Chairman of the Board, which was done on rotation basis of Chairman of every Board. Then, they came out with a formula, which define the indicators to calculate the backlog. We have identified nine such sectors, namely, irrigation, roads, general education, technical and vocational education, health services, water supply, land and soil conservation, horticulture, veterinary services and electrification of irrigation pumps. These were the nine areas. The backlog is actually prepared district-wise. Then, we calculated the average, and, we finalized it board-wise, region-wise, but, we have taken care of districts also.”

4.1.25 The representatives of the State Government of Maharashtra further apprised the Committee that the Government of Maharashtra opened a cell. However, he suggested that there should be a permanent feature to have adequate staff at the Governor's Secretariat so that they can monitor, have the field visit and do self-evaluation. At present, they are wholly dependent on the irrigation or the concerned department of the State Government. As a result of which, Governor's Secretariat could not get the real feedback. Therefore, there should be separate department under the Governor's Secretariat to monitor these backlog programmes.

4.1.26 The representatives of the Government of Maharashtra also apprised the Committee about the problems faced by the Government in implementation of the Constitutional provisions which are enumerated as under:-

"There is one difficulty, which we have faced. The Governor has authority to allocate the funds and also to oversee that the distribution of funds should be equitable but there are some administrative problems in this area because in some of these regions, the technical staff was not posted and a large number of posts remained unfilled. There was no proper monitoring of programme implementation. So, we suggested that the Governor should also have power to give directions to the State Government to have the administrative machinery strengthened, and, also to ask them that there should be no vacancies in those areas so that there is proportionate staff to implement the schemes. This is another problem which we face in Maharashtra. Thirdly, the Raj Bhawan Secretariat do not have adequate staff to monitor these programmes. So, we also proposed that there should be a cell in the Governor Secretariat which can specifically monitor this. Fourthly, basically, we put more emphasis on financial expenditure but there should be corresponding or proportionate physical achievement and, this physical achievement should also be measured and monitored."

Article 371D for Andhra Pradesh (Tilangana Model)

4.1.27 According to the representative of the State Government of Andhra Pradesh, under Article 371D there are two orders issued by the president: one providing for reservation in the field of public employment; and the other providing for reservation in the field of education. Both have been held constitutionally valid by the Judiciary.

4.1.28 Sharing about the experience of implementation of Article 371D, the representative of Andhra Pradesh stated as under:

"the experience in Andhra Pradesh has been mainly in the area of public employment. We had the Presidential Order as per which the State was divided into six zones and there was a special city

cadre for Hyderabad also and different levels of staff had to be there at different percentages in each of these six different zones. And then, the zonal and multi-zonal cadres were slightly of a higher level. A few years back, many deviations were found in the implementation. After that, a big exercise was done of identifying how many staff in different departments were working in violation of the original scheme of things. At that time, the total number of staff who were found to be working in violation was about 18,000 and orders were issued by the State Government at different levels, and 14,784 repatriation orders from one zone to another were issued. Out of these, in some cases exemptions were made and still we are fighting about 5,100 court cases. So, in those cases the deviations have not been implemented. This is the status regarding public employment."

4.1.29 Replying to the Chairman's query as to whether the Government is redistributing staff in the zones or also adding them to the posts in the backward regions or in the regions where the employment is lesser and also as to whether any impetus has been given for recruiting more people in the lesser employment zone or the Government is only trying to repatriate the staff to their respective zones, the representative of Government of Andhra Pradesh apprised the Committee that the people would be repatriated to their original zones and the resultant vacancies in the previous zones would be filled up by the local candidates.

4.1.30 Apprising about the nature of the court cases the representative of

Government of Andhra Pradesh stated as under:-

" I would tell you a little about the journey up to 371D. That is important. In the erstwhile Hyderabad State, there was a Civil Service Regulation called the Mulki Rules, which prohibited employment of people from outside Hyderabad in the

Government service of the then Hyderabad State. Those Mulki Rules continued even after the formation of the new Andhra Pradesh State. Now, different agitations took place at that time; the agitations of 1972-73 for Telangana and Andhra resulted in the formation of a compromise agreement in 1974, with leaders from all three regions of the State, which is commonly known as the Six-Point Formula. Out of those six issues, two pertain to providing reservation for people from that area in the field of public employment and education. Now, coming to public employment, the President was authorized under 371D and the President issued an order and there is a separate cell with the State Government which monitors all those recruitments. Successively there were complaints about non-implementation of the Presidential Order properly, in the sense that jobs which should have gone to the Telangana people in Telangana were not given to them and they were given to people from Andhra, etc., and these issues kept cropping up. So, ultimately, in 2007, a comprehensive exercise was taken up throughout the State in which each and every public employment made from 1975 till 2007 was scrutinized to assess whether it was done as per the provisions of the Presidential Order or not. In those cases where it was not done, people were sent back to their native areas where they should have been considered at that time under the Reservation Policy. Many people went back but the people who did not want to go to their re-assigned areas approached the court, but the number of court cases was so much that a separate Three-Member Bench was formed in the Administrative Tribunal to dispose of all the cases through a Common Order. That was done. The orders were issued by the Tribunal in favour of the Government. But out of those, some people still approached the High Court. The High Court has taken up, through a Single Bench, all the cases which are more than 2,500 now. The hearing is over. We are expecting the order any time. That is the status, as far as court cases are concerned."

4.1.31 Regarding the query as to how the Government proposes to deal with the court cases, the representative of the Government of Andhra Pradesh stated as under:-

" the number of cases pending in the High Court is only about 2500. All of them have been clubbed into a single case. The only issue which is being agitated legally in the High Court is whether the scheme of identifying recruitment done wrongly can be done retrospectively. I shall give you the background, Sir. The Presidential Order prescribes reservation. Let us take the post of LDC, for example; 80 per cent of the posts of LDC, say, in the district Nalgonda should be given to the local people of Nalgonda, and the remaining 20 per cent posts are open to everybody including people from Nalgonda. Now, in the initial phase of implementation of the Presidential Order, the Government instructions were that if 100 recruitments are made, and in those 100 if there are 80 people from Nalgonda, it is correct. Now, this was probably wrong, and this mistake was rectified in the year 2002, because in any scheme of reservation, the reservation has to be slotted and so, you have to specify which 80 out of 100. That was done for the first time only in 2002 and, therefore, we took this position back to 1975 while reviewing the recruitment. Now, it is only on this issue that people have gone to the court asking whether this mechanism can be applied retrospectively. The Tribunal said, yes, it can be applied because it is the original date from which the scheme is enforced."

5.0 Fresh Development

5.1 In the meanwhile, when the Committee was at the final stage of examination of the Bill and finalizing the report thereon, a communication dated 9th November, 2012 was received from the Ministry of Home Affairs forwarding therewith a copy of the letter received by the Home Secretary from Chief Secretary, Karnataka wherein the State Government of Karnataka had requested for granting special status to the Hyderabad-Karnataka Region on the lines of special status to Andhra Pradesh under Article 371D only . The Letter also mentioned that the Union Government

had not consulted the State Government on the contents of the proposed amendment i.e. Article 371 J prior to either bringing it before the Union Cabinet or before introduction in the Rajya Sabha. The letter further stated that the Government of Karnataka and the people of Karnataka have always been requesting only for regional reservation in technical education and employment as provided in the Article 371 D. The intent of the resolution passed by both the Houses of the State legislature was also limited to the same. The State Government has examined the Maharashtra model in 2005 itself and felt that the Special Development Plan as envisaged by the High Power Committee headed by Dr. D.M. Nanjundappa on regional balance is much suited to the Karnataka situation rather than establishing Region Development Boards on the pattern of Maharashtra. According to the State Government, the regional reservation in employment and technical education, multipronged regional balance programme and regional boards would be effective in redressing the imbalance and there is no justification and need for the provision for the Constitutional status to regional boards. The State Government requested the Government of India and the Committee to suitably modify the Bill in conformity with the Article 371 D and drop the provisions similar to Article 371 (2).

5.2 The letter further stated that the State Cabinet also deliberated the matter at length and furnished its considered opinion as follows:

- (i) The Constitution (118th Amendment) Bill, 2012 for inserting the Article 371-J may be modified in conformity with the Article 371-D conferring similar special status to the Hyderabad-Karnataka Areas as per the resolution passed by both the Houses of the

State Legislature and to drop all other provisions similar to the Article 371(2) applicable to the State of Maharashtra.

- (ii) The Government of India and the Planning Commission are requested to allocate special funds for the development of Hyderabad-Karnataka Area,

5.3 The Chairman of the Committee also received a letter on the similar lines from the Chief Minister, Karnataka. (**Annexure IV**)

5.4 In view of this fresh development, the Committee heard the views of Home Secretary alongwith the Chief Secretary, State Government of Karnataka on 16 November, 2012. The Chief Secretary, Karnataka, reiterating what was mentioned in the letter indicated above, requested the Committee for necessary modification in the Bill on the lines of Article 371 D. He also mentioned that this was the intention of the Resolutions passed by both the Houses of the Karnataka Legislature.

5.5 Responding on the views of the Karnataka Government, the Home Secretary stated that whatever recommendations are made by the Department-related Parliament Standing Committee on Home Affairs, the same will be considered and examined by the Government of India.

6.0 RECOMMENDATION

6.1 The Committee notes the considered opinion of the State Government of Karnataka that they made repeated requests to the Union Government to grant special status to Hyderabad-Karnataka Region on the lines of special provisions made under Article 371D in respect of Andhra Pradesh. The Committee further notes that both

Houses of Karnataka Legislature also unanimously passed resolutions to provide special status on the lines of only Article 371D of the Constitution of India. While agreeing with the views of State Government of Karnataka, the Committee feels that the Ministry of Home Affairs should have taken the State Government into confidence about the provisions of the Bill before piloting it in the Parliament. In view of the opinion of the State Government of Karnataka on the provisions of the present Bill, the Committee recommends that Ministry of Home Affairs may withdraw this Bill. Discussions with the State Government of Karnataka may be held and a modified version of the Bill may be brought forward before the Parliament at the earliest.
